## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

JESSE MALDONADO,	)	
Plaintiff,	į	
Vs.	) ) Case No.	19-cv-312-SPS
VIVINT SOLAR,	) (COMPLAINT (DEMANDED) (DEMANDED)	
Defendant.	ý	

## **COMPLAINT**

### I. INTRODUCTION

- 1. This is an action for damages and other relief brought by a consumer pursuant to the federal Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681, et seq. The FCRA restricts access to consumer credit reports except for specific, statutorily enumerated purposes under 15 U.S.C. §1681b.
- Defendant Vivint Solar, without notice or permission accessed Plaintiff's consumer reports under false pretenses, without any permissible purpose or authorization.

## II. <u>JURISDICTION</u>

3. Jurisdiction arises under the FCRA, 15 U.S.C. §1681p, and 28 U.S.C. §1337.

#### III. PARTIES

- Plaintiff is Jesse Maldonado, a consumer who resides in Choctaw County, in Soper,
   Oklahoma.
- Defendant Vivint Solar is a Delaware corporation with a principal office at 3301 N.
   Thanksgiving Way, Suite 500, Lehi, Utah.

#### IV. STATEMENT OF CLAIM

- On September 14, 2017, an inquiry was made to the credit bureaus for the credit reports of Jesse Maldonado by a company called Vivint Solar.
  - Jesse Maldonado did not consent to Vivint Solar obtaining his credit reports.
- Plaintiff never provided any authorization to have his credit reports pulled by
   Vivint Solar.
- 9. Pursuant to 15 U.S.C. §1681b, a consumer report can be obtained only for the specific purposes stated thereunder, including for use in connection with a credit transaction that the consumer initiated, a firm credit offer, employment purposes, or a business transaction in which an individual has accepted personal liability for business credit.
  - 10. Vivint Solar never had a permissible purpose to obtain Plaintiff's credit report.
- 11. Vivint Solar obtained Plaintiff's consumer report under false pretenses to the credit bureaus because Plaintiff never provided authorization for a credit pull, nor sought any extension of credit.
- 12. Defendant knew or should have known that Plaintiff did not authorize any inquiry into his credit information at any time, nor initiated any credit transaction.
- 13. Vivint Solar, as a pattern and practice, regularly obtains consumer reports on consumers without a permissible purpose and/or under false pretenses.
- 14. Consumers across the country have complained to Vivint Solar that Vivint's agents pulled their credit without consent or authorization.

- 15. Despite ample notice of this problem, Vivint Solar continued to allow its salespeople to routinely invade the privacy of consumers and violate the Act by pulling credit reports without a permissible purpose.
- 16. As a result of Defendant's willful, wanton, reckless, and/or negligent action, Plaintiff has been damaged.
- 17. Vivint Solar received and possessed Plaintiff's sensitive and private credit and personal data.
- 18. The consumer reports obtained by Vivint Solar included a trove of sensitive personal and private information about Plaintiff, such as his birthdate, credit history profile, pay histories, employer information and the like.
- 19. Plaintiff's privacy has been invaded as a result of the willful, wanton, reckless and/or negligent conduct of Defendant.
- 20. Plaintiff has lost trust, is suspicious and has been constrained to monitor his credit to prevent unauthorized access to his sensitive credit information.
- 21. Plaintiff has suffered mental and emotional distress, worry, and aggravation as a result of Defendant's actions.

# COUNT I FAIR CREDIT REPORTING ACT

- 22. Plaintiff repeats the allegations contained above as if the same were here set forth at length.
- 23. Defendant has violated the Fair Credit Reporting Act by willfully and/or negligently obtaining the Plaintiff's consumer credit reports without a statutorily permissible purpose. 15 U.S.C. § 1681b, 1681q, 1681n and §1681o.

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WHEREFORE, Plaintiff Jesse Maldonado demands judgment against Defendant Vivint Solar for:

- (a) Actual and compensatory damages;
- (b) Punitive damages;
- (c) A declaration that the conduct complained of violates the provisions of the Fair Credit Reporting Act, 15 U.S.C. § 1681b;
- (d) An Order requiring return of Plaintiff's confidential consumer report and destruction of any copies;
  - (e) Attorney's fees and costs; and
  - (f) Such other and further relief as the Court shall deem just and proper.

## V. DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully submitted,

/s/ Victor R. Wandres

Victor R. Wandres, OBA #19591

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